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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,302	09/09/2003	William Shelmon	TTC-13002/08	2137
25006	7590	06/07/2006	EXAMINER	
GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C PO BOX 7021 TROY, MI 48007-7021			LARSON, JUSTIN MATTHEW	
			ART UNIT	PAPER NUMBER
			3727	
DATE MAILED: 06/07/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/658,302

Applicant(s)

SHELMON ET AL.

Examiner

Justin M. Larson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings were received on 3/2/06. These drawings are not approved because Figure 7 contains New Matter. Figure 7 shows specific locations of the container holder within the vehicle that were not specifically mentioned in the originally filed disclosure.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Dennis et al. (6,834,838).

Regarding claims 1 and 6, Dennis et al. discloses a collapsible container holder assembly (Figure 11) for use in a vehicle, the container holder comprising: a carrier portion (100') adapted to be selectably mounted within the vehicle (104'), the carrier portion having at least one recess opening formed therein, said at least one recessed portion extending between a top end and an opposite bottom end of said carrier portion (see Response to Arguments/Amendments section below); at least one container receptor portion (108) adapted to telescopically engage and be retained within the at least one opening formed in the carrier portion and wherein the at least one container

receptor portion is adjustable between an extended and collapsed position relative to the carrier portion (Figures 1a & 1b), said receptor portion protruding axially outwardly relative to said bottom end while in said extended position (see Response to Arguments/Amendments section below). Regarding claim 6 in particular, the initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Dennis et al. which is capable of being used in the intended manner, i.e., the carrier portion being mountable to a plurality of trim components (104U and 104'). There is no structure in Dennis et al. that would prohibit such functional intended use (see MPEP 2111)(see Response to Arguments/Amendments section below).

Regarding claim 2, Dennis et al. discloses at least one retaining member (150 or 154) adapted to engage at least one complementary mounting point at the vehicle (158 or 160).

Regarding claims 3 and 7, Dennis et al. discloses a locking mechanism (132/132P) for locking the at least one container receptor portion in the extended position.

Regarding claims 4 and 8, the locking mechanism is locked by rotating the at least one container receptor portion in a first direction while extending and unlocked by rotating the at least one container receptor portion in an opposite direction.

Regarding claims 5 and 9, Dennis et al. discloses at least one retaining arm (118) disposed on an exterior surface of the at least one container receptor portion, the at least one retaining arm operative to prevent the at least one container receptor

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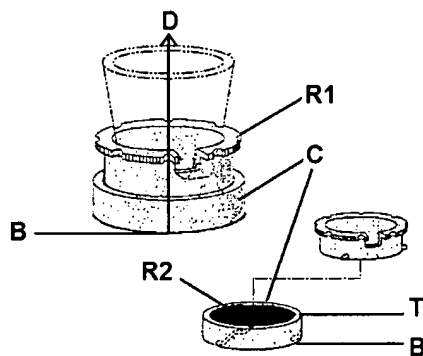
portion from being pushed out from the carrier portion when the at least one container receptor is moved to the collapsed position

Regarding claim 10, the claim merely combines the limitations of claims 1, 3, and 4, which have already been shown to be unpatentable over Dennis et al.

Response to Arguments/Amendments

4. Applicant's arguments filed 3/2/06 have been fully considered but they are not persuasive. In particular, Examiner does not agree that the amendments made to claims define over the original rejections set forth in the previous Office action.

Regarding the newly added limitations to claims 1, 6, and 10, Examiner provides the following Figure and explanations:



Regarding the limitation "said at least one recessed portion extending between a top end and an opposite bottom end of said carrier portion", in the above figure, the recessed portion (R2) of Dennis et al. clearly extends between a top end (T) and a bottom end (B) of the carrier portion (C).

Regarding the limitation "said receptor portion protruding axially outwardly relative to said bottom end while in said extended position", in the above figure, the

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receptor portion (R1) of Dennis et al. clearly extends in a direction (D) out of the carrier portion (C), the direction being upward and outward from the carrier (C) relative to the bottom (B) of the carrier (C).

Regarding the limitation that the carrier portion is "adapted to be selectably mountable to a plurality of complementary mounting positions within the vehicle", Examiner notes that Applicant is not in fact claiming a series of floor trays that are mounted in various locations on the interior of a vehicle. Applicant is claiming a container holder only, the container holder capable of being mounted in pre-existing floor trays which are mounted in various locations within a vehicle. Examiner notes that these other mounting structures may not be floor trays per say, but there must certainly be some existing mounting structure for the container holder of the present invention to be mounted to. Looking at the container holder of Dennis et al. Dennis et al. discloses that the container holder is mounted on a trim component (104U or 104') of a vehicle. Examiner takes the position that there are many different trim components on the interior of the vehicle, as easily discernable as the trim on the left side of the vehicle vs. the trim on the right side of the vehicle. It follows that the container holder of Dennis et al. is in fact capable of being mounted to a plurality of complementary mounting positions, such as any of the interior trim components of the vehicle.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Friday, 8am - 4pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JML
5/16/06



NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER

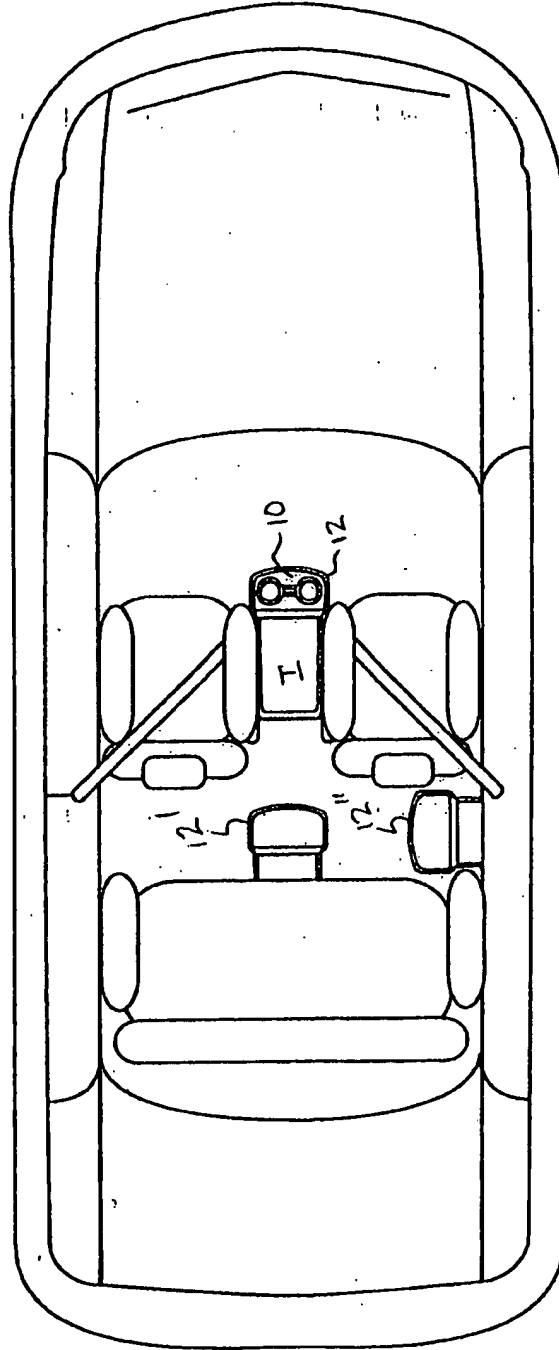


FIG. 7

NOT APPROVED JML 5/30/06